

30 October 2019

Hon David Parker, Attorney-General

Consistency with the New Zealand Bill of Rights Act 1990: International Crimes and International Criminal Court Amendment Bill

1. We have considered whether the International Crimes and International Criminal Court Amendment Bill ('the Bill') is consistent with the rights and freedoms affirmed in the New Zealand Bill of Rights Act 1990 ('the Bill of Rights Act').
2. The Bill amends the International Crimes and International Criminal Court Act 2000 ('the principal Act') to incorporate a series of amendments made in 2010 and 2017 to the Rome Statute of the International Criminal Court concerning war crimes. The amendments expand the list of war crimes subject to the International Criminal Court's jurisdiction. The Bill will ratify these amendments and allow proceedings to be brought in New Zealand for these new offences.
3. The amendments make it a war crime to employ—
 - a. the following in non-international armed conflict:
 - i. Poison or poisoned weapons;
 - ii. asphyxiating, poisonous, or other gases, and analogous liquids, materials, or devices;
 - iii. expanding bullets.
 - b. and the following in both international and non-international armed conflict:
 - i. weapons that use microbial agents, biological agents, or toxins;
 - ii. weapons that injure by fragments that are undetectable by X-rays; and
 - iii. blinding laser weapons.
4. The Rome Statute also incorporates a number of amendments which relate to the crime of aggression. However, the Bill specifically excludes 'crime of aggression' from the definition of international crime and states that the provisions in the Rome Statute relating to the crime of aggression do not apply to and do not have force of law in New Zealand. The Bill also makes a small number of minor technical amendments to the principal Act.
5. We have concluded that the Bill appears to be consistent with the rights and freedoms affirmed in the Bill of Rights Act.

Edrick Child
Deputy Chief Legal Counsel
Office of Legal Counsel